

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4979

IN THE MATTER OF:

Served December 4, 1996

Application of COMPREHENSIVE)
CARE II, INC., for a Certificate)
of Authority -- Irregular Route)
Operations)

Case No. AP-96-55

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. An applicant must show the present ability to sustain operations during its first year under WMATC authority.¹

Applicant proposes commencing operations with seven vans. Applicant proposes six contract tariffs for transportation provided to residents of six group homes operated by applicant under the DC Medicaid program.

Applicant filed a balance sheet as of March 31, 1996, showing assets of \$983,945; liabilities of \$1,371,037; and negative equity of \$387,092. Applicant's projected operating statement for the twelve months ending December 31, 1997, shows revenue of \$2,883,447; expenses of \$2,728,010; and net income of \$155,437.

Although applicant's balance sheet shows negative working capital of \$536,905,² applicant is an ongoing business, and applicant's cash flow statement shows positive cash flow for the twelve months ending December 31, 1997. We have found other applicants fit under similar circumstances.³

¹ In re District of Columbia Community Servs., Inc., No. AP-96-36, Order No. 4945 (Sept. 27, 1996); In re District of Columbia Family Servs., Inc., No. AP-96-20, Order No. 4868 (June 10, 1996).

² Working capital is defined as current assets minus current liabilities.

³ Order No. 4945 (sufficient cash flow); Order No. 4868 (same).

Applicant certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Because applicant is under common control with Elrod Transportation Service, Inc., WMATC Carrier No. 50, this case is also governed by Title II, Article XII, Section 3(a)(iii),⁴ which provides that a "carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to . . . acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means." The Commission may approve such a transaction if it is consistent with the public interest.⁵ The public interest analysis under Article XII, Section 3, focuses on the acquiring party's fitness, the resulting competitive balance and the interests of affected employees.⁶

Analysis of the relevant factors supports a finding of consistency with the public interest. The acquiring parties in this case are two of applicant's officers. Our current finding of applicant's fitness permits an inference of the acquiring parties' fitness.⁷ Moreover, a presumption of fitness obtains where, as in this case, the acquiring parties control another WMATC carrier previously found fit.⁸ There should be no adverse effect on competition. Each commonly-controlled carrier will be operated independently of the other, and the Commission's records show that many other carriers presently serve this market. The interests of affected employees is not an issue where an applicant has no prior operations.⁹

The Commission finds that the proposed common control is consistent with the public interest.

⁴ In re Executive Sedan Mgmt. Servs., Inc., t/a Washington Car & Driver, No. AP-94-26, Order No. 4354 (Aug. 1, 1994).

⁵ Compact, tit. II, art. XII, § 3(c).

⁶ In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd., & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996).

⁷ In re Double Decker Bus Tours, W.D.C., Inc., No. AP-95-21, Order No. 4642 (Aug. 9, 1995).

⁸ In re Capital Tours & Transp. (Virginia), Inc., No. AP-95-48, Order No. 4714 (Dec. 5, 1995).

⁹ Order No. 4642 at 8-9.

THEREFORE, IT IS ORDERED:

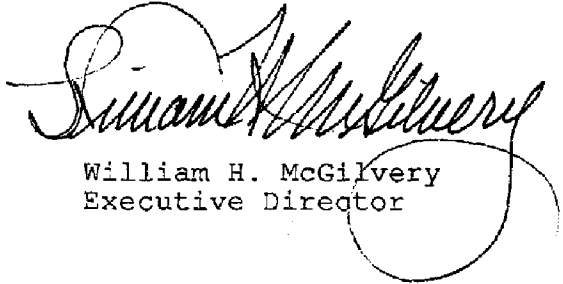
1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 374 shall be issued to Comprehensive Care II, Inc., 337 Delafield Place, N.W., Washington, DC 20011.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

3. That applicant is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:



William H. McGilvery
Executive Director